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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL
FILE

In the Matter of

Continuous Sponsorship Identification
for Program-Length Commercials

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RM-7984

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OPPOSITION OF NATIONAL INFOMERCIAL MARKETING ASSOCIATION
TO PETITIONERS' MOTION TO STRIKE

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July 9, 1992

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In their Reply to Comments submitted by the National Infomercial Marketing Association ("NIMA") and others, petitioners argued that the Commission should decline to consider the Comments of NIMA and the National Association of Broadcasters. We reluctantly conclude that this pleading is a motion to strike and submit this brief response in opposition.

Petitioners suggest (Reply at 1-2) that NIMA's Comments should be disregarded because of late service of that document on counsel. This statement could be interpreted as a motion to strike the Comments. But petitioners do not claim that they were prejudiced in any way by the delay in service; they filed a full Reply in a timely fashion. Indeed, during rulemakings (and especially at this early

NIMA

stage) the Commission will consider letters or other informal comments from the public as to which there is no requirement of service on the parties. 47 C.F.R. 1.419(b). Accordingly, there is no basis for the suggestion that the Commission should refuse to consider NIMA's comments.

This aspect of the Reply is another example of an effort to divert the Commission's scarce resources on matters of little or no practical concern. The Reply ignored the basic objection that the concerns expressed are essentially academic, and that petitioners have failed to provide evidence of a problem of such significance as to justify committing Commission resources. Petitioners instead rely exclusively on dated anecdotal evidence reported second-hand in media articles, concerning an early period in the development of infomercials before initiation of industry self-regulation and vigorous Federal Trade Commission enforcement, and that ignores the important point, noted by FTC Commissioner Owen, that viewers are now much more familiar with the program-length commercial format.

Rather than address these fundamental problems with the Petition, the first argument of the Reply suggests sanctions for a regrettable, but non-prejudicial, later service. NIMA submits that the inquiry should not focus on such technical matters, but on the core issue whether, in reality, there is a significant problem that is not being addressed under the



current regulatory scheme, and whether the Commission should allocate its limited resources to this area rather than to other, more pressing problems.

Respectfully submitted,

National Infomercial
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July 9, 1992



CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of July, 1992, I caused to be mailed copies of the Opposition to Motion to Strike to the following parties:

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